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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA
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7 THOMAS LAYTON,
8 Plaintiff,

9 vs.

10 GREEN VALLEY VILLAGE COMMUNITY
11 ASSOCIATION, dba GREEN VALLEY
12 VILLAGE HOA, *et al.*,
Defendants.

Case No. 2:14-cv-01347-GMN-GWF

ORDER

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14 This matter is before the Court on Plaintiff's Motion to Extend Time to Serve Defendant
15 Joseph Yakubi and, Alternatively, to Serve Defendant by Publication (ECF No. 68), filed on June
16 14, 2017.

17 Pursuant to Fed. R. Civ. P. 6(b) and LR 26-4, extensions of time may be granted for good
18 cause shown. Further, Rule 4(m) of the Federal Rules of Civil Procedure – which governs the time
19 limit of service – allows the court to grant an extension of time for service if the plaintiff can show
20 good cause for his failure to timely serve a defendant. Rule 4(e) of the Federal Rules of Civil
21 Procedure provides that the state statutes in which the District Court is held are followed in matters
22 pertaining to service of summons by publication. N.R.C.P. 4(e)(1)(i) states that the court may
23 permit service by publication if, after due diligence shown, the plaintiff is unable to find the
24 defendant(s) within the state, or they are avoiding the service of summons. The plaintiff must
25 prove this to the satisfaction of the court either by affidavit or by a verified complaint. The Nevada
26 Supreme Court has held that there is no objective, formulaic standard for determining what is, or is
27 not, due diligence. *Abreu v. Gilmer*, 985 P.2d 746, 749 (1999).

28 On May 1, 2017, Plaintiff filed his Motion to Extend Time to Serve (ECF No. 62) and on

1 May 17, 2017, the Court granted Plaintiff a 45 day extension of time to serve. *See* ECF No. 65.
2 Plaintiff represents that he has made another ten (10) separate attempts at effectuating personal
3 service on Defendant. Further, Plaintiff performed searches of the county assessor's office and
4 phone directory. The Court finds that Plaintiff has provided sufficient good cause to warrant an
5 extension of time to serve Defendant Joseph Yakubik. Plaintiff also requests that he be permitted
6 to serve Defendant by publication. Plaintiff has demonstrated due diligence in attempting service
7 that would warrant permitting service by publication. Accordingly,

8 **IT IS HEREBY ORDERED** Plaintiff's Motion to Extend Time to Serve Defendant
9 Joseph Yakubi and, Alternatively, to Serve Defendant by Publication (ECF No. 68) is **granted** as
10 follows:

- 11 1. Defendant Joseph Yakubik may be served by Plaintiff through publication in this
12 case at least once a week for four (4) consecutive weeks in the Nevada Legal News,
13 which is a newspaper of general circulation published in Las Vegas, Nevada. Said
14 service must be effectuated on or before **August 4, 2017**.

15 DATED this 20th day of June, 2017.

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18 GEORGE FOLEY, JR.
19 United States Magistrate Judge
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